

**PEACOCK, MYERS & ADAMS, P.C.**
INTELLECTUAL PROPERTY LAW SERVICESRECEIVED
CENTRAL FAX CENTERJUL 14 2004
OFFICIAL

Deborah A. Peacock, P.E.^{1,2}
Jeffrey D. Myers^{1,2}
Paul Adams^{1,2,3}
Rod D. Baker^{1,2}
Stephen A. Slusher¹
Marcia Thayer Nass⁴
Vidal A. Oaxaca^{1,3}

¹ Registered U.S. Patent and Trademark Office
Admitted New Mexico Bar

² Admitted Colorado Bar

³ Admitted California, Washington Bars

⁴ Admitted New Mexico, California and
New York Bars

⁵ Admitted Texas Bar

P.O. Box 26927
Albuquerque, New Mexico 87125-6927

Suite 1340
201 Third Street, N.W.
Albuquerque, New Mexico 87102-3368

Telephone (505) 998-1500

Fax (505) 243-2542

Email: info@PeacockLaw.com
<http://www.PeacockLaw.com>

FAX COVER SHEET
July 13, 2004

TO: Examiner D. Mohanty

FIRM: U.S. Patent and Trademark Office

DOCUMENT: U.S. Serial No. 10/043,006 *JOM*

FROM: Jeffrey D. Myers Reg. No. 35,964

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 21

FAX NO.: 703 308-7766

703 872-9306

MESSAGE

Transmission unsuccessful
on July 13, 2004. Resent July 14, 2004

Annette M. Turk
Annette Turk, Paralegal

- ☒ Original will not follow
☐ Original will follow via:
☐ First-class mail
☐ Overnight delivery
☐ Hand delivery

CLIENT # 37000
MATTER # 101

Please telephone Rometa or Rick at 998-1500 if you do not receive or cannot clearly read the information transmitted herewith. Our return fax number is 243-2542. This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

FaxForm.doc

 *** ERROR TX REPORT ***

RECEIVED
 CENTRAL FAX CENTER

JUL 14 2004

TX FUNCTION WAS NOT COMPLETED

TX/RX NO. 9937
 CONNECTION TEL 17033087766
 CONNECTION ID
 START TIME 07/13 17:18
 USAGE TIME 00'00
 PAGES 0
 RESULT NG 0 #018



PEACOCK, MYERS & ADAMS, P.C.

INTELLECTUAL PROPERTY LAW SERVICES

Deborah A. Peacock, P.E.^{1,2}
 Jeffrey D. Myers^{1,2}
 Paul Adams^{1,2,3}
 Rod D. Baker^{1,2}
 Stephen A. Slusher¹
 Marcia Thayer Nuss¹
 Vidal A. Ouxaca^{1,4}

¹ Registered U.S. Patent and Trademark Office
 Admitted New Mexico Bar

² Admitted Colorado Bar

³ Admitted California, Washington Bars

⁴ Admitted New Mexico, California and
 New York Bars

⁵ Admitted Texas Bar

P.O. Box 16927
 Albuquerque, New Mexico 87125-6927

Suite 1140
 201 Third Street, N.W.
 Albuquerque, New Mexico 87102-3368

Telephone (505) 998-1500

Fax (505) 243-2542

Email: info@PeacockLaw.com
 http://www.PeacockLaw.com

FAX COVER SHEET

July 13, 2004

TO: Examiner D. Mohanty

FIRM: U.S. Patent and Trademark Office

DOCUMENT: U.S. Serial No. 10/043,006 JOM

FROM: Jeffrey D. Myers Reg. No. 35,964

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 21

FAX NO.: 703 308-7766

MESSAGE

07/14/04 09:22 FAX 505 243 2542

PEACOCK LAW FIRM

OFFICIAL

027

001

07/13/04 17:03

505 243 2542

PEACOCK LAW FIRM

*** ERROR TX REPORT ***

RECEIVED
CENTRAL FAX CENTER

JUL 14 2004

TX FUNCTION WAS NOT COMPLETED

TX/RX NO. 9936
CONNECTION TEL 17033087766
CONNECTION ID
START TIME 07/13 17:03
USAGE TIME 00'00
PAGES 0
RESULT NG 0 #018



PEACOCK, MYERS & ADAMS, P.C.

INTELLECTUAL PROPERTY LAW SERVICES

Dorah A. Peacock, P.E.^{1,2}
Jeffrey D. Myers^{1,2}
Paul Adams^{1,2,3}
Rod D. Baker^{1,2}
Stephen A. Slusher¹
Marcia Thayer Nass¹
Vidal A. Oaxaca^{1,3}

¹ Registered U.S. Patent and Trademark Office
Admitted New Mexico Bar

² Admitted Colorado Bar

³ Admitted California, Washington Bars

⁴ Admitted New Mexico, California and
New York Bars

⁵ Admitted Texas Bar

P.O. Box 1 6927
Albuquerque, New Mexico 87125-6927

Suite 1140
201 Third Street, N.W.
Albuquerque, New Mexico 87102-3368

Telephone (505) 998-1500

Fax (505) 243-2542

Email: info@PeacockLaw.com
http://www.PeacockLaw.com

FAX COVER SHEET

July 13, 2004

TO: Examiner D. Mohanty

FIRM: U.S. Patent and Trademark Office

DOCUMENT: U.S. Serial No. 10/043,006

JDM

FROM: Jeffrey D. Myers Reg. No. 35,964

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 21

FAX NO.: 703 308-7766

MESSAGE

Practitioner's Docket No. _____

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: **A. Burl Donaldson**Application No: **10/ 043,006**Group No.: **3747**Filed: **January 8, 2002**Examiner: **B. Mohanty**

For:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
BEFORE MAILING DATE OF EITHER A FINAL ACTION
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))**

NOTE: 37 C.F.R. 1.97: "(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

- (1) The statement specified in paragraph (e) of this section; or
- (2) The fee set forth in § 1.17(p)."

NOTE: "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☐ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 *

- ☐ with sufficient postage as first class mail.

- ☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

- ☒ facsimile transmitted to the Patent and Trademark Office, (703) _____

308 7766

Signature _____

Date: July 13, 2004Jeffrey D. Myers, Reg. No. 35,964

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [8-4]—page 1 of 3)

NOTE: 37 C.F.R. § 1.704(d): "A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable."

NOTE: "If information submitted during the period set forth in 37 C.F.R. 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, if the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 C.F.R. § 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63). But see § 103(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d) and in a request for continued examination (RCE) under § 1.114.

WARNING: No extension of time can be had under 37 C.F.R. 1.136 (a) or (b) for filing an IDS. 37 C.F.R. 1.97(f).

TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

1. The Information disclosure statement transmitted herewith is being filed **after** three months of the filing date of this national application or the date of entry of the national stage as set forth in § 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but **before** the mailing date of either:

- (1) a final action under § 1.113 or
- (2) a notice of allowance under § 1.311,

whichever occurs first.

STATEMENT OR FEE

2. Accompanying this transmittal is

(check either A or B below)

- A. ☐ a statement as specified in 37 C.F.R. § 1.97(e).

OR

- B. ☒ the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c). (\$180.00).

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance. [6-4]—page 2 of 3)

FEE PAYMENT*(complete this item, if applicable)*

3. Applicant elects the option to pay the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00).

Fee due \$ 180.00**METHOD OF PAYMENT OF FEE**

4.

- ☐ Attached is a ☐ check ☐ money order in the amount of \$ _____
- ☒ Authorization is hereby made to charge the amount of \$ 180.00
- ☒ to Deposit Account No. 13-4213
- ☐ to Credit-card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Reg. No. 35,964

Tel. No.: (505) 998-1500

Customer No.: 005179

SIGNATURE OF PRACTITIONER

Jeffrey D. Myers

PEACOCK, MYERS & ADAMS, P.C.

(type or print name of practitioner)

Post Office Box 26927

P.O. Address

Albuquerque, New Mexico 87125-6927

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [6-4]—page 3 of 3)

Practitioner's Docket No. _____

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: **A. Burl Donaldson**Application No: **10/ 043,006**Group No.: **3747**Filed: **January 8, 2002**Examiner: **B. Mohanty**

For:

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450****TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
BEFORE MAILING DATE OF EITHER A FINAL ACTION
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))**

NOTE: 37 C.F.R. 1.97: "(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

- (1) The statement specified in paragraph (e) of this section; or
- (2) The fee set forth in § 1.17(p)."

NOTE: "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☐ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)**37 C.F.R. § 1.10 ***

- ☐ with sufficient postage as first class mail.

- ☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

- ☒ facsimile transmitted to the Patent and Trademark Office, (703) _____

308 7766

Signature _____

Date: **JULY 13, 2004****Jeffrey D. Myers, Reg. No. 35,964**

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.8(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [6-4]—page 1 of 3)

NOTE: 37 C.F.R. § 1.704(d): "A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable."

NOTE: "If information submitted during the period set forth in 37 C.F.R. 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, if the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 C.F.R. § 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63). But see § 103(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d) and in a request for continued examination (RCE) under § 1.114.

WARNING: No extension of time can be had under 37 C.F.R. 1.136 (a) or (b) for filing an IDS. 37 C.F.R. 1.97(f).

TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

1. The information disclosure statement transmitted herewith is being filed **after** three months of the filing date of this national application or the date of entry of the national stage as set forth in § 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but **before** the mailing date of either:
 - (1) a final action under § 1.113 or
 - (2) a notice of allowance under § 1.311,whichever occurs first.

STATEMENT OR FEE

2. Accompanying this transmittal is

(check either A or B below)

A. ☐ a statement as specified in 37 C.F.R. § 1.97(e).

OR

B. ☒ the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c). (\$180.00).

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance. [8-4]—page 2 of 3)

FEE PAYMENT

(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00).

Fee due \$ 180.00**METHOD OF PAYMENT OF FEE**

4.

☐ Attached is a ☐ check ☐ money order in the amount of \$ _____☒ Authorization is hereby made to charge the amount of \$ 180.00☒ to Deposit Account No. 13-4213☐ to Credit-card as shown on the attached credit card information authorization form PTO-2038.**WARNING:** Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Filed in Duplicate

SIGNATURE OF PRACTITIONER

Jeffrey D. Myers

PEACOCK, MYERS & ADAMS, P.C.

(type or print name of practitioner)

Post Office Box 26927

P.O. Address

Albuquerque, New Mexico 87125-6927

Reg. No. 35,964

Tel. No.: (505) 998-1500

Customer No.: 005179

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [8-4]—page 3 of 3)

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	4653	
CONNECTION TEL		17033087766
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/13 18:03	
USAGE T	00'00	
PGS. SENT	0	
RESULT	NG	#018 BUSY/NO SIGNAL

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	4652	
CONNECTION TEL		17033087766
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/13 17:52	
USAGE T	00'00	
PGS. SENT	0	
RESULT	NG	#018 BUSY/NO SIGNAL

07/14/04 09:22 FAX 505 243 2542
07/13/04 17:42 FAX 505 243 2542

PEACOCK LAW FIRM
PEACOCK LAW FIRM

024
001

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	4651	
CONNECTION TEL		17033087766
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/13 17:41	
USAGE T	00'00	
PGS. SENT	0	
RESULT	NG	#018 BUSY/NO SIGNAL

07/14/04 09:22 FAX 505 243 2542

PEACOCK LAW FIRM

025

07/13/04 17:29 FAX 505 243 2542

PEACOCK LAW FIRM

001

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RI NO	4650	
CONNECTION TEL		17033087766
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/13 17:28	
USAGE T	00'00	
PGS. SENT	0	
RESULT	NG	#018 BUSY/NO SIGNAL

07/14/04 09:22 FAX 505 243 2542
07/13/04 16:50 FAX 505 243 2542

PEACOCK LAW FIRM
PEACOCK LAW FIRM

028
001

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	4647	
CONNECTION TEL		17033087788
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/13 16:49	
USAGE T	00'00	
PGS. SENT	0	
RESULT	NG	#018 BUSY/NO SIGNAL

07/14/04 09:23 FAX 505 243 2542
07/13/04 16:40 FAX 505 243 2542

PEACOCK LAW FIRM
PEACOCK LAW FIRM

029
001

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	4646	
CONNECTION TEL		17033087766
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/13 16:39	
USAGE T	00'00	
PGS. SENT	0	
RESULT	NG	#018 BUSY/NO SIGNAL

07/14/04 09:23 FAX 505 243 2542
07/13/04 16:25 FAX 505 243 2542

PEACOCK LAW FIRM
PEACOCK LAW FIRM

030
001

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	4645	
CONNECTION TEL		17033087766
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/13 16:24	
USAGE T	00'00	
PGS. SENT	0	
RESULT	NG	#018 BUSY/NO SIGNAL